

**DETAILED ACTION**

Claims 1-7, 9-11 and 13-15 are pending in the instant application. Claim 8 was cancelled by way of examiner's amendment. Claims 1-7, 9-11 and 13-15 are allowed.

***Response to Amendment and Arguments/Remarks***

Applicant's amendment and arguments/remarks filed on August 5, 2009 have been fully considered and entered into the application. In regards to the 35 U.S.C. 103(a) rejection of claims 1, 3 and 5 over US 2004/0229955, the grounds for rejection are moot in view of Applicant's amendment and the rejection has been withdrawn. In regards to the 35 U.S.C. 103(a) rejection of claims 1-4 and 15 over Zupancic et al., Applicant argues that "the compounds according to Zupancic are characterized by the primary carboxamide group (C(O)NH<sub>2</sub>), whereas the respective group within the presently claimed compound is *inter alia* a secondary carboxamide (C(O)NHalkyl). A replacement of the hydrogen in these positions of the molecule, especially that close to a carbonyl group, e.g. by a methyl group, would lead to a significant difference in the physical and chemical properties." Applicant also argues that "Zupancic does not give any hint or motivation why especially those hydrogen atoms, which correspond to R1 and R8 in the present application, should be replaced." These arguments have been found to be fully persuasive and the rejection has been withdrawn. In regards to the 35 U.S.C. 103(a) rejection of claims 1, 3 and 5 over Sawamura et al., the grounds for rejection are moot in view of Applicant's amendment and the rejection has been withdrawn. In regards to the objection of claims 9 and 10, the

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grounds for objection are moot in view of Applicant's amendment and the objection has been withdrawn.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The claims have been amended as follows: claim 8 is cancelled.

### **REASONS FOR ALLOWANCE**

The compounds of formula I, herbicidal compositions of formula I and the processes of the instant claims are novel and non-obvious over the prior art because of the structural limitations that both R1 and R8 are not hydrogen. The closest prior art is US 2004/00229955 which discloses antibacterial compounds of formula I (i.e., abstract), such as the compound N-{2-hydroxy-1-[(hydroxyamino)carbonyl]-2-phenylethyl}-4-[(trifluoromethyl)oxy]benzamide (i.e., Example 1307, page 486). The compounds disclosed in US 2004/00229955 do not fit within the scope of the compounds of the instant claims nor are they obvious variants. Therefore, the compounds disclosed in US 2004/00229955 have different properties than the compounds of the instant claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTIN BIANCHI whose telephone number is (571)270-5232. The examiner can normally be reached on Mon-Fri 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kamal A Saeed/  
Primary Examiner, Art Unit 1626

Kristin Bianchi  
Examiner  
Art Unit 1626

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